

7. Service certificate (r. 51(7))

District Court of Western Australia		Appeal No: 1 of 2017
Held at Bunbury ^{1A}		SERVICE CERTIFICATE
Parties	Andrew Laughton	Appellant
	Sharyl Marsh and James Marsh	Respondent
Date of filing		
Certificate ¹	<p>I certify that on 13 September 2018 Andrew Laughton served the respondent by email and by post with these documents —</p> <ul style="list-style-type: none"> • a copy of an appeal notice dated 13 September 2018; • a copy of every other document that was filed with the appeal notice; • a copy of Form 8 (Notice of respondent's intention). <p>I undertake to file an affidavit of service if the Court requires me to.</p>	
 Signature of appellant or lawyer	ANDREW LAUGHTON Appellant/Appellant's lawyer	Date: 13 September 2018.

Note to Form 7 —

1A. If not held at Perth, state the location of the relevant registry.

1. If the documents were posted to the superintendent of the prison in which the respondent is imprisoned, modify this certificate to say when they were posted and to which prison.
2. Strike out whichever is inapplicable.

1A. Affidavit (r. 23A)

District Court of Western Australia		Appeal No / Action No: 1 of 2017	
Held at Bunbury^{1A}		AFFIDAVIT¹	
Parties	Andrew Laughton *Appellant/Plaintiff Sharyl Marsh and James Marsh *Respondent/Defendant *delete inapplicable and/or add full party details		
Person making affidavit	Andrew Laughton		
Date of filing			
Date made	13 September 2018		
Purpose²	Statement of fact regarding hearings on <i>24 MAY 2018</i>		
Filed by	Andrew Laughton		
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I, Andrew Laughton, of 98 Proper bay road Port Lincoln, Electrician, *affirm in accordance with the Oaths, Affidavits and Statutory Declarations Act 2005*] as follows —

1. This relates to the following Western Australian courts;
 - 1.1. Magistrates court case MC/CIV/BUN/GCLM/316/2015
 - 1.2. Magistrate Bailiff reference: 180544
 - 1.3. Bunbury District court appeal 1 of 2017.
 - 1.4. It does have a Court of Appeal case number.
2. It involves a boundary retaining wall dispute where the defense had 700mm of soil / sand against the fence, which then broke the dividing fence and damaged the boundary retaining wall in 2012.
3. The Magistrates court ruled against me due to lack of evidence.
4. I appealed to the District court for a large number of reasons including the defense withholding critical documents that had been requested over a year earlier.
5. The defense appealed against the appeal and applied for security of costs.
6. 13/07/2017 District court registrar hearing where I stated that I might be able to pay the \$13,000 security, but would definitely not be able to pay the \$22,000 + for costs for the Magistrates court as well as the \$13,000 security to the District court.
7. 9/08/2017 I submitted a form 9 and a support affidavit to the District court.
8. 23/08/2017 the Magistrates court rejected my application to suspend payments to the Magistrates court for costs of over \$22,000.
9. 30/8/2017 Bailiff reference: 180544 I was told by the Bailiffs office that they would seize my property if I did not pay them immediately. I could no longer wait for a verdict from the District court and started paying money instead to the Bailiffs office.
10. 30/10/2017 the District court verdict on the appeal against the appeal was issued, based on multiple false assumptions.
11. 9/11/2017 I sent in an affidavit clarifying multiple points on the district court registrars decision.
12. 27/11/2017. \$13,000 had been paid to the court, via the Bailiffs office, and within the deadline set by the District Court.
13. During this time there were multiple emails between myself and my lawyer Max Owens trying to refine the appeal as per the district court verdict.

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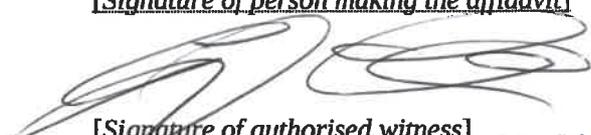
14. When I had agreed not to update the appeal grounds, my lawyer was supposed to apply to the District court for a hearing date for the appeal, but I have never received a response from the District Court.
15. Shortly after this the defense applied for a hearing date to cancel the appeal.
16. 26 April 2018 The hearing to cancel the appeal. I attended some of it by phone, the court excluded me for most of it. The biggest problem was the order had not been sealed.
17. This hearing was postponed to 24 May 2018 so that the court could sort out its paperwork.
18. 23 May 2018, the day before the hearing date myself and Max received an email from the defense containing an unsigned letter from a "Court officer" stating that the matter was settled and a copy of the 30/10/2017 District court verdict. This implied that the 24 May 2018 hearing had been canceled.
 - 18.1. A copy of this document is attached.
19. I never received a phone call from the court on 24 May 2018 to either cancel or for the hearing itself.
20. A written decision from 24 May 2018 has still not been received from the court, but appears to be based on my 9/8/2017 Form 9 not having a filing fee paid, and paying \$13,000 to the wrong court.
21. The only reason I know the date of the 24 May 2018 decision is through inquiries to the court after I tried to pay the filing fee for a second form 9 dated 25/5/2018 on 11/6/2018 and 13/6/2018.
22. I was unable to pay the \$13,000 security on 13/6/2018 or 14/6/2018 as the deadline had expired, 21 days after a new 28 day deadline had been set.
23. 25/5/2018 Submitted a second Form 9 and support affidavit to the District court.
24. 5/6/2018 Date of reply from the District court stating that I need to pay a filing fee.
25. 11/6/2018 and 13/6/2018 I contacted the District court to pay the filing fee.
 - 25.1. I was told I was unable to pay it as the deadline had expired.
26. 13/6/2018 I managed to borrow more money and on either the 13/6/2018 or 14/6/2018 I tried to pay the District Court the \$13,000 security.
 - 26.1. I was unable to pay this as the deadline had expired, 21 days after a 28 day deadline had been set.

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27. The Bailif had been threatening to seize my house again, so the money that was reserved for the District court security was sent to the Bailiffs office.
28. As of today's date, I have spent approx \$30,000 fixing the damage caused by my neighbors, it is still not complete, and fully paid the Bailiff about \$25,000 and lost over \$30,000 in income.
29. A copy of the paperwork from the court that the defense sent us has still not been received directly from the court.
30. A decision by the District court registrar has still not been received.
31. I cannot appeal against any decision without knowing what it is.
- 32.
33. The defense has done everything in its power to delay and frustrate this case including signing false affidavits claiming that all documents had been shown to the other parties.
- 33.1. Part of the original appeal is because critical documents were seen for the first time in court, without me being aware that I could object.
- 33.2. It now appears as if they have manipulated the District court, although this may simply be a clerical error.
34. This hearing was first set for 13 September 2018, unfortunately the District court failed to respond to a request for procedural advice and I did not follow the correct procedure.
35. This hearing has now been set for 11 October 2018 at 10:00am.

This affidavit is affirmed by Andrew Laughton in the presence of an authorised witness at on 13 September 2018.


[Signature of person making the affidavit]


[Signature of authorised witness]

Authorised witness

[Name of authorised witness]

[Qualification of authorised witness]⁵

Anthony John DAL-Gerobbo
1 Popular Aim Court
MILDURA VIC 3500
JP VICTORIA No. 10176
Mobile : 0408 147 962





Your Ref: Ian Morison

Sharyl Marsh
c/- Morison Legal
ian@morisonlegal.com.au

**DISTRICT COURT
OF WESTERN AUSTRALIA**
ABN: 70 598 519 443
3 Stephen Street
BUNBURY WA 6230
TELEPHONE: (08) 9781 4200
FACSIMILE: (08) 9721 8180

Dear Sir or Madam

**Laughton v Marsh & Another
DISTRICT COURT ACTION No. APP 1 of 2017**

The Order before Registrar in Chambers in for Settling filed on 22 May 2018 have been settled.

Please find attached a copy of the Order before Registrar in Chambers that is now settled.

If you have any further queries please do not hesitate to contact the Court Registry on (08) 9781 4200.

Yours faithfully

COURT OFFICER
23 May 2018

A handwritten signature in black ink, appearing to be 'A.L.' followed by a large, stylized flourish.

**IN THE DISTRICT COURT OF
WESTERN AUSTRALIA
HELD AT BUNBURY**

APPEAL NO 1 OF 2017

BETWEEN

ANDREW LAUGHTON

APPELLANT

and

SHARYL MARSH AND JAMES MARSH

RESPONDENTS

ORDERS BEFORE PRINCIPAL REGISTRAR MELVILLE 30 OCTOBER 2017

Date of document: 22 May 2018
Filed on behalf of: Respondents
Date of filing:

Filed by:
Morison Legal
Unit 1, 2 Zoe Street
BUNBURY WA 6230

Email: ian@morisonlegal.com.au
Phone: 0418 916 709
Reference: Ian Morison

UPON THE APPLICATION of the respondents by chamber summons filed 25 May 2017 and
UPON HEARING Mr Owens for the appellant and Mr Morison for the respondents IT IS
ORDERED that:

1. Grounds 6, 7, 8, 11 and 16 of the appeal notice be struck out and ground 9 insofar as it refers to the lack of backing blocks to the retaining wall be struck out.
2. Within 28 days the appellant pay \$13,000 into court by way of security for costs and that in the meantime all further proceedings be stayed.
3. The appellant pay the respondents' costs of the application to be taxed.



BY THE COURT
REGISTRAR

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6. Appeal notice (r. 51(1))

District Court of Western Australia Held at Bunbury ¹		Appeal No: 1 of 2017
APPEAL NOTICE		
Parties	Andrew Laughton	Appellant
	Sharyl Marsh and James Marsh	Respondent
PRIMARY COURT'S DECISION		
Primary court	Bunbury District Court	
Case number	1 of 2017	
Parties	Laughton vs Marsh	
Date of decision	24 May 2018	
Judicial officer	Registrar Harmon	
Decision details ²	<p>A background on this case is attached at the end of these forms.</p> <p>I was excluded from the majority of the hearing on 26 April 2018, which was postponed to 24 May 2018.</p> <p>An unsigned document from a "Court Officer" was received from the defense on 23 May 2018, stating that the matter had been settled, and implied that the 24 May 2018 hearing had been canceled.</p> <p>I never received a phone call from the court on 24 May 2018 to either cancel or for the hearing itself.</p> <p>A written decision from 24 May 2018 has still not been received from the court, but appears to be based on my 9/8/2017 Form 9 not having a filing fee paid, and failing to pay \$13,000 security to the District court.</p> <p>The only reason I know the date of the 24 May 2018 decision is through inquiries to the court after I tried to pay the filing fee for a second form 9 dated 25/5/2018 on 11/6/2018 and 13/6/2018.</p> <p>I was unable to pay the \$13,000 security on 13/6/2018 or 14/6/2018 as the deadline had expired, 21 days after a 28 day deadline had been set.</p>	
APPEAL DETAILS		
Notice of appeal	The appellant appeals to the District Court against the registrars decision on or about 24 May 2018.	

	<p>The appellant appeals to the District Court for a written copy of the decision made on either the 23rd or 24th of May 2018.</p> <p>The appellant appeals to the District Court to postpone the deadline for appealing to the 24 May 2018 decision.</p> <p>The appellant appeals to the District Court for a hearing date to be set to hear the appeal against Magistrates case MC/CIV/BUN/GCLM/316/2015</p>
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Grounds of appeal ³

- 1 I was unaware of the need to pay a filing fee for my form 9 dated 9/8/2017, and was not notified by the court or my Lawyer.
- 2 I did in fact pay \$13,000 to the court as instructed by the Bailiff office, before the original deadline of 27 November 2017. Unfortunately the Bailiffs advice was wrong and the money went to the wrong court.
- 3 I tried to pay a filing fee for both of my form 9's dated 9/8/2017 and 25/5/2018, within the new 28 day deadline and was rejected by the courts office.
- 4 I tried to pay a second \$13,000 security to the District court within the new 28 day deadline, and it was rejected by the courts office.
- 5 The appeal against the appeal was based on the grounds that the appeal was frivolous and that I could not pay the cost of the defense if I lost.
 - 5.1 The appeal is set out in detail in the appeal notices dated 20-12-2016, and 28-03-2017 and is not frivolous nor trivial, and includes serious misconduct by the defense.
 - 5.2 The cost of the defense for the Magistrates court has been paid in full, negating the original appeal against the appeal argument.
- 6 Some delays have also been caused by my lawyer failing to submit an appeal notice, and only letting me know late on 27-06-2018.
 - 6.1 I am still keen to have a lawyer represent me, but I am doing this myself to try to avoid any unseen deadlines.
- 7 On 15/01/2016 the Magistrates court overturned a default ruling in this case because the defense missed a deadline by over 40 days. The defense argued that a precedent had been set that allows this. In the interests of fairness the exact same logic and legal argument should be applied to this appeal.
- 8 That the order to pay an additional \$13,000 to the District court as well as the defense costs in the Magistrates court would not shut me out of an appeal is wrong in fact, and against the precedent set in *Frigger v Clavey* [2015].
 - 8.1 My lawyer advised me not to appeal this decision after I told him that I could not afford to pay both the Magistrates court and the District court.

Acts that allows appeal ⁴	DCR Section:60 (2) Court of Appeal precedents set in; Stone v Braun [2015] WASCA 103 Rajski v Scitec Corporation Pty Ltd [1986] NSWCA 1,14 Minogue v Human Rights and Equal Opportunity Commission [1999] FCA 85 (1999) 84 FCR 438[26]-[29] Glew v Frank Jasper Pty Ltd [2010] WASCA 87 of the Court of Appeal. Neil v Nott [1994] HCA 23 [5] (1994) 121 ALR 148, 150. Procedural fairness and natural justice. Frigger v Clavey Legal Pty Ltd [No 2] [2015] WASCA 258[29], including point (d) Sims v Suda Ltd [No 2][2015] WASCA 180 [20]
Notice to the respondent ⁵	<p>If you want to take part in this appeal you must file a Form 8 (attached) under the <i>District Court Rules 2005</i> within 21 days after the date on which you are served with this notice and serve it on the appellant.</p> <p>If you file a Form 8 you must attend a directions hearing at the time and place stated below.</p>
Last date for appealing	Last date: Is an extension of time needed? Yes/No
Date of filing	13 September 2018
Directions hearing ⁶	Date: 11 October 2018 Time: 10:00 am Place: Bunbury Court.
APPELLANT'S SERVICE DETAILS	
Geographical address of appellant (Must be provided unless otherwise ordered by the Court: see <i>Rules of the Supreme Court 1971</i> Order 71A rule 2 and <i>District Court Rules 2005</i> rule 22C)	98 Proper Bay road Port Lincoln, South Australia. 5606 or Cabin 11, Robinvale Riverside caravan park, Victoria, 3549
Name of lawyer (If one has been appointed)	
Postal address for	PO Box 5015, Port Lincoln South, South Australia. 5606

service of documents (Must be provided)	
Email address (Optional — if provided, may be used for service of documents)	laughton.andrew@gmail.com
Fax number (Optional — if provided, may be used for service of documents)	
Telephone number	0409 931 559
Reference	Laughton vs Marsh
Signature of appellant or lawyer 	Appellant/Appellant's lawyer Andrew Laughton
	Date: 13 September 2018

8. Notice of respondent's intention (r. 53)

District Court of Western Australia Held at Bunbury ¹		Appeal No: 1 of 2017
		NOTICE OF RESPONDENT'S INTENTION
Parties	Andrew Laughton Appellant Sharyl Marsh and James Marsh Respondent	
Notice [Tick one box]	<input type="checkbox"/> ² The respondent intends to take part in this appeal. <input type="checkbox"/> ³ The respondent does not intend to take part in this appeal and will accept any order made by the Court in the appeal other than as to costs.	
Grounds for upholding	<input type="checkbox"/> The respondent will argue the primary court's decision should be upheld on the grounds relied on by the primary court in its decision.	
Other grounds for upholding ⁴	<input type="checkbox"/> The respondent will argue the primary court's decision should be upheld on the following grounds, not relied on by the primary court in its decision: 1.	
Variation ⁴	<input type="checkbox"/> The respondent applies for the primary court's decision to be varied as follows — 1. <input type="checkbox"/> The respondent will argue the primary court's decision should be varied on the following grounds: 1.	
Cross-appeal ⁴	<input type="checkbox"/> The respondent also appeals against the primary court's decision and will rely on the following grounds: 1.	
Other orders	The respondent also seeks order that: ⁵	
Last date for appealing ⁶	Last date: Is an extension of time needed? Yes/No	
Date of filing		

RESPONDENT'S DETAILS FOR SERVICE		
Geographical address of respondent (Must be provided unless otherwise ordered by the Court: see <i>Rules of the Supreme Court 1971</i> Order 71A rule 2 and <i>District Court Rules 2005</i> rule 22C)		
Name of lawyer (If one has been appointed)		
Postal address for service of documents (Must be provided)		
Email address (Optional — if provided, may be used for service of documents)		
Fax number (Optional — if provided, may be used for service of documents)		
Telephone number		
Reference		
Signature of respondent or lawyer	Respondent/Respondent's lawyer	Date:

Notes to Form 8 —

1. If not held at Perth, state the relevant registry.
2. If this box is ticked, complete one or more of the next 5 rows and the respondent's details for service.
3. If this box is ticked, ignore the next 5 rows and complete the respondent's details for service.
4. Set out the grounds in numbered paragraphs.
5. For possible orders see rule 57(2).
6. Complete this only if the respondent also appeals against the primary court's decision.